

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:17-cv-01097-APM**

LONG et al v. IMMIGRATION AND CUSTOMS
ENFORCEMENT

Assigned to: Judge Amit P. Mehta
Cause: 05:552 Freedom of Information Act

Date Filed: 06/08/2017

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

SUSAN B. LONG

represented by **Scott Lawrence Nelson**
PUBLIC CITIZEN LITIGATION
GROUP
1600 20th Street, NW
Washington, DC 20009-1001
(202) 588-7724
Fax: 202-588-7795
Email: snelson@citizen.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael T. Kirkpatrick
PUBLIC CITIZEN LITIGATION
GROUP
1600 20th Street, NW
Washington, DC 20009
(202) 588-7728
Fax: (202) 588-7795
Email: mkirkpatrick@citizen.org
ATTORNEY TO BE NOTICED

Sean M. Sherman
PUBLIC CITIZEN LITIGATION
GROUP
1600 20th Street, NW
Washington, DC 20009
(202) 588-7739
Email: ssherman@citizen.org
TERMINATED: 11/30/2018

Plaintiff

DAVID BURNHAM

represented by **Scott Lawrence Nelson**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael T. Kirkpatrick
(See above for address)
ATTORNEY TO BE NOTICED

Sean M. Sherman
(See above for address)
TERMINATED: 11/30/2018

V.

Defendant

**IMMIGRATION AND CUSTOMS
ENFORCEMENT**

represented by **William Mark Nebeker**
U.S. ATTORNEY'S OFFICE FOR THE

DISTRICT OF COLUMBIA
 555 Fourth Street, NW
 Washington, DC 20530
 (202) 252-2536
 Fax: (202) 252-2599
 Email: mark.nebeker@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/08/2017	<u>1</u>	COMPLAINT against ALL DEFENDANTS (Filing fee \$ 400 receipt number 0090-4983046) filed by DAVID BURNHAM, SUSAN B. LONG. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons)(Sherman, Sean) (Entered: 06/08/2017)
06/08/2017		Case Assigned to Judge Amit P. Mehta. (md) (Entered: 06/09/2017)
06/09/2017	<u>2</u>	SUMMONS (3) Issued Electronically as to IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice of Consent) (md) (Entered: 06/09/2017)
06/12/2017	<u>3</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 6/12/2017. Answer due for ALL FEDERAL DEFENDANTS by 7/12/2017. (Sherman, Sean) (Entered: 06/12/2017)
06/23/2017	<u>4</u>	NOTICE of Appearance by William Mark Nebeker on behalf of IMMIGRATION AND CUSTOMS ENFORCEMENT (Nebeker, William) (Entered: 06/23/2017)
07/12/2017	<u>5</u>	Unopposed MOTION for Extension of Time to File Answer re <u>1</u> Complaint by IMMIGRATION AND CUSTOMS ENFORCEMENT (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 07/12/2017)
07/13/2017		MINUTE ORDER granting Defendant's <u>5</u> Unopposed Motion for Extension of Time to Answer. Defendant shall now file its responsive pleading on or before July 27, 2017. Signed by Judge Amit P. Mehta on 07/13/2017. (lcapm1) (Entered: 07/13/2017)
07/13/2017		Set/Reset Deadlines/Hearings: Responsive pleading due by 7/27/2017. (cdw) (Entered: 07/13/2017)
07/27/2017	<u>6</u>	ANSWER to Complaint by IMMIGRATION AND CUSTOMS ENFORCEMENT.(Nebeker, William) (Entered: 07/27/2017)
07/28/2017	<u>7</u>	ORDER: Both a Complaint and an Answer are now before the court in this FOIA case. It is hereby ordered that the parties shall meet and confer and file a Joint Status Report on or before August 18, 2017. See the attached Order for additional details. Signed by Judge Amit P. Mehta on 07/28/2017. (lcapm1) (Entered: 07/28/2017)
07/28/2017		Set/Reset Deadlines/Hearings: Joint Status Report due by 8/18/2017. (cdw) (Entered: 07/28/2017)
08/17/2017	<u>8</u>	Joint STATUS REPORT by IMMIGRATION AND CUSTOMS ENFORCEMENT. (Nebeker, William) (Entered: 08/17/2017)
08/21/2017	<u>9</u>	ORDER entering the briefing schedule proposed in the parties' <u>8</u> Joint Status Report. The schedule for further proceedings in this matter is as follows: (1) Defendant's Motion for Summary Judgment is due on or before October 20, 2017; (2) Plaintiffs' Opposition to Defendant's Motion and Cross-Motion for Summary Judgment is due on or before November 24, 2017; (3) Defendant's Reply in Support of Summary Judgment and Opposition to Plaintiffs' Cross-Motion for Summary Judgment is due on or before December 22, 2017; and (4) Plaintiff's Reply in Support of Cross-Motion for Summary Judgment is due on or before January 19, 2018. See the attached Order for additional details. Signed by Judge Amit P. Mehta on 08/21/2017. (lcapm1) (Entered: 08/21/2017)

08/21/2017		Set/Reset Deadlines/Hearings: Defendant's Summary Judgment motion due by 10/20/2017. Response to Motion for Summary Judgment due by 11/21/2017. Reply to Motion for Summary Judgment due by 12/22/2017. Plaintiffs' Cross Motion due by 11/24/2017. Response to Cross Motion due by 12/22/2017. Reply to Cross Motion due by 1/19/2018. (zcdw) (Entered: 08/22/2017)
10/17/2017	<u>10</u>	Unopposed MOTION for Extension of Time to File <i>Dispositive Motion</i> by IMMIGRATION AND CUSTOMS ENFORCEMENT (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 10/17/2017)
10/18/2017		MINUTE ORDER granting Defendant's <u>10</u> Unopposed Motion for Extension of Time and revising the schedule in this matter as follows: (1) Defendant's Motion for Summary Judgment is due on or before November 3, 2017; (2) Plaintiffs' Opposition to Defendant's Motion and Cross-Motion for Summary Judgment is due on or before December 8, 2017; (3) Defendant's Reply in Support of Summary Judgment and Opposition to Plaintiffs' Cross-Motion for Summary Judgment is due on or before January 12, 2018; and (4) Plaintiffs' Reply in Support of Cross-Motion for Summary Judgment is due on or before February 9, 2018. Signed by Judge Amit P. Mehta on 10/18/2017. (lcapm1) (Entered: 10/18/2017)
11/03/2017	<u>11</u>	MOTION for Summary Judgment by IMMIGRATION AND CUSTOMS ENFORCEMENT (Attachments: # <u>1</u> Declaration Pavlik-Keenan, # <u>2</u> Declaration Jones, # <u>3</u> Text of Proposed Order)(Nebeker, William) (Entered: 11/03/2017)
12/08/2017	<u>12</u>	MOTION for Summary Judgment by DAVID BURNHAM, SUSAN B. LONG (Attachments: # <u>1</u> Declaration of Susan B. Long and Accompanying Exhibits, # <u>2</u> Text of Proposed Order)(Sherman, Sean) (Entered: 12/08/2017)
12/08/2017	<u>13</u>	Memorandum in opposition to re <u>11</u> MOTION for Summary Judgment filed by DAVID BURNHAM, SUSAN B. LONG. (Attachments: # <u>1</u> Declaration of Susan B. Long and Accompanying Exhibits, # <u>2</u> Text of Proposed Order)(Sherman, Sean) (Entered: 12/08/2017)
01/11/2018	<u>14</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>12</u> MOTION for Summary Judgment , <u>11</u> MOTION for Summary Judgment by IMMIGRATION AND CUSTOMS ENFORCEMENT (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 01/11/2018)
01/11/2018		MINUTE ORDER granting Defendant's <u>14</u> Unopposed Motion for Extension of Time to File Response/Reply. Defendant's Reply and Opposition to Plaintiffs' Cross-Motion for Summary Judgment shall now be due on or before January 26, 2018, and Plaintiffs' Reply in Support of their Cross-Motion shall be due on or before February 23, 2018. Signed by Judge Amit P. Mehta on 01/11/2018. (lcapm1) (Entered: 01/11/2018)
01/11/2018		Set/Reset Deadlines/Hearings: Reply to Motion for Summary Judgment due by 1/26/2018. Response to Cross Motions due by 1/26/2018. Reply to Cross Motions due by 2/23/2018. (zcdw) (Entered: 01/15/2018)
01/24/2018	<u>15</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>12</u> MOTION for Summary Judgment , <u>11</u> MOTION for Summary Judgment by IMMIGRATION AND CUSTOMS ENFORCEMENT (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 01/24/2018)
01/26/2018		MINUTE ORDER granting Defendant's <u>15</u> Unopposed Motion for Extension of Time to File Response/Reply. Defendant's Reply and Opposition to Plaintiffs' Cross-Motion for Summary Judgment shall now be due on or before February 9, 2018, and Plaintiffs' Reply shall be due on or before March 9, 2018. Signed by Judge Amit P. Mehta on 01/26/2018. (lcapm1) (Entered: 01/26/2018)
01/26/2018		Set/Reset Deadlines/Hearings: Reply to Motion for Summary Judgment due by 2/9/2018. Response to Cross Motion due by 2/9/2018. Reply to Cross Motion due by 3/9/2018. (zcdw) (Entered: 01/27/2018)
02/09/2018	<u>16</u>	Memorandum in opposition to re <u>12</u> MOTION for Summary Judgment filed by IMMIGRATION AND CUSTOMS ENFORCEMENT. (Attachments: # <u>1</u> Declaration Second Jones Decl., # <u>2</u> Text of Proposed Order)(Nebeker, William) (Entered: 02/09/2018)

02/09/2018	<u>17</u>	REPLY to opposition to motion re <u>11</u> MOTION for Summary Judgment (<i>same as ECF No. 16</i>) filed by IMMIGRATION AND CUSTOMS ENFORCEMENT. (Attachments: # <u>1</u> Declaration Second Jones Decl., # <u>2</u> Text of Proposed Order)(Nebeker, William) (Entered: 02/09/2018)
02/23/2018	<u>18</u>	MOTION for Extension of Time to File Response/Reply as to <u>12</u> MOTION for Summary Judgment by DAVID BURNHAM, SUSAN B. LONG (Attachments: # <u>1</u> Text of Proposed Order)(Sherman, Sean) (Entered: 02/23/2018)
02/23/2018		MINUTE ORDER granting Plaintiffs' <u>18</u> Unopposed Motion for Extension of Time to File Reply. Plaintiffs' Reply shall now be due on or before March 23, 2018. Signed by Judge Amit P. Mehta on 02/23/2018. (lcapm1) (Entered: 02/23/2018)
03/23/2018	<u>19</u>	REPLY to opposition to motion re <u>12</u> MOTION for Summary Judgment filed by DAVID BURNHAM, SUSAN B. LONG. (Attachments: # <u>1</u> Declaration of Susan B. Long (Second) and Accompanying Exhibits)(Sherman, Sean) (Entered: 03/23/2018)
09/28/2018	<u>20</u>	MEMORANDUM OPINION AND ORDER denying Defendant's <u>11</u> Motion for Summary Judgment and Plaintiffs' <u>12</u> Cross-Motion for Summary Judgment without prejudice. The parties shall appear for a Status Conference on October 10, 2018, at 10:00 a.m. in Courtroom 10 to discuss further proceedings in this matter. See the attached Memorandum Opinion and Order for additional details. Signed by Judge Amit P. Mehta on 09/28/2018. (lcapm1) (Entered: 09/28/2018)
10/01/2018		Set/Reset Hearings: Status Conference rescheduled to 10/10/2018 at 11:00 AM in Courtroom 10 before Judge Amit P. Mehta. (zjd) (Entered: 10/01/2018)
10/08/2018	<u>21</u>	MOTION for Order <i>Governing Further Proceedings</i> by DAVID BURNHAM, SUSAN B. LONG (Attachments: # <u>1</u> Text of Proposed Order)(Sherman, Sean) (Entered: 10/08/2018)
10/10/2018		Minute Entry for proceedings held before Judge Amit P. Mehta: Status Conference held on 10/10/2018. Government's Supplemental Declaration due by 12/14/2018. Joint Status Report due by 11/7/2018. (Court Reporter: Elizabeth Saint-Loth) (zjd) (Entered: 10/10/2018)
10/10/2018		MINUTE ORDER denying Plaintiffs' <u>21</u> Motion for Order Governing Further Proceedings. Pursuant to the Status Conference held on this date, the parties shall file a Joint Status Report, on or before November 7, 2018, that updates the court on their progress toward resolving this matter. Defendant's supplemental declaration shall be due on or before December 14, 2018. Signed by Judge Amit P. Mehta on 10/10/2018. (lcapm1) (Entered: 10/10/2018)
10/24/2018	<u>22</u>	<p>TRANSCRIPT OF PROCEEDINGS before Judge Amit P. Mehta held on 10-10-2018; Page Numbers: 1 – 30. Date of Issuance: 10-24-2018. Court Reporter/Transcriber Elizabeth SaintLoth, Telephone number 202-354-3242, Transcripts may be ordered by submitting the <u>Transcript Order Form</u></p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter reference d above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.</p> <p>Redaction Request due 11/14/2018. Redacted Transcript Deadline set for 11/24/2018. Release of Transcript Restriction set for 1/22/2019.(Saint-Loth, Elizabeth) (Entered: 10/24/2018)</p>
11/07/2018	<u>23</u>	Joint STATUS REPORT by DAVID BURNHAM, SUSAN B. LONG. (Sherman, Sean) (Entered: 11/07/2018)

11/08/2018		MINUTE ORDER: In light of <u>23</u> the parties' Joint Status Report, the parties shall submit a subsequent Joint Status Report on or before November 30, 2018, advising the court of progress in the parties' efforts to settle. Signed by Judge Amit P. Mehta on 11/08/2018. (lcapm1) (Entered: 11/08/2018)
11/08/2018		Set/Reset Deadlines: Joint Status Report due by 11/30/2018. (zjd) (Entered: 11/08/2018)
11/15/2018	<u>24</u>	NOTICE of Appearance by Scott Lawrence Nelson on behalf of All Plaintiffs (Nelson, Scott) (Entered: 11/15/2018)
11/20/2018		NOTICE OF ERROR re <u>24</u> Notice of Appearance; emailed to snelson@citizen.org, cc'd 5 associated attorneys -- The PDF file you docketed contained errors: 1. Invalid attorney signature, 2. Attorney's membership with the bar of this court has lapsed; Please visit our website for renewal instructions: http://www.dcd.uscourts.gov/attorney-admissions-and-renewal-information (znmw,) (Entered: 11/20/2018)
11/20/2018	<u>25</u>	NOTICE of Appearance by Scott Lawrence Nelson on behalf of All Plaintiffs (Nelson, Scott) (Entered: 11/20/2018)
11/26/2018	<u>26</u>	NOTICE of Appearance by Michael T. Kirkpatrick on behalf of All Plaintiffs (Kirkpatrick, Michael) (Entered: 11/26/2018)
11/30/2018	<u>27</u>	Joint STATUS REPORT by DAVID BURNHAM, SUSAN B. LONG. (Sherman, Sean) (Entered: 11/30/2018)
11/30/2018	<u>28</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to DAVID BURNHAM, SUSAN B. LONG. Attorney Sean M. Sherman terminated. (Sherman, Sean) (Entered: 11/30/2018)
12/03/2018		MINUTE ORDER. The parties shall file an additional status report no later than January 4, 2019, updating the court as to their settlement efforts. The deadline to file Defendant's supplemental declaration on December 14, 2018, is hereby vacated and is reset to January 15, 2019. Signed by Judge Amit P. Mehta on 12/03/2018. (lcapm1) (Entered: 12/03/2018)
12/03/2018		Set/Reset Deadlines: Joint Status Report due by 1/4/2019. Supplemental Declaration due by 1/15/2019. (zjd) (Entered: 12/03/2018)
01/02/2019	<u>29</u>	Consent MOTION to Stay (<i>Defendant's Consent Motion to Stay Proceedings In Light of Lapse in Appropriations</i>) by IMMIGRATION AND CUSTOMS ENFORCEMENT (Nebeker, William) (Entered: 01/02/2019)
01/04/2019	<u>30</u>	STATUS REPORT by DAVID BURNHAM, SUSAN B. LONG. (Nelson, Scott) (Entered: 01/04/2019)
01/07/2019		MINUTE ORDER granting <u>29</u> Defendant's Consent Motion for a Stay of Proceedings. This matter is hereby stayed. Within three business days of Department of Justice operations resuming, Defendant shall notify the court by when the parties will file their Joint Status Report. Signed by Judge Amit P. Mehta on 01/07/2019. (lcapm1) (Entered: 01/07/2019)
01/30/2019	<u>31</u>	STATUS REPORT by IMMIGRATION AND CUSTOMS ENFORCEMENT. (Nebeker, William) (Entered: 01/30/2019)
01/30/2019		MINUTE ORDER. The parties shall file their next Status Report on or before February 15, 2019. The court will set a schedule for further proceedings if settlement efforts are unsuccessful. Signed by Judge Amit P. Mehta on 01/30/2019. (Entered: 01/30/2019)
01/30/2019		Set/Reset Deadlines: Joint Status Report due by 2/15/2019. (zjd) (Entered: 02/05/2019)
02/15/2019	<u>32</u>	Joint STATUS REPORT by DAVID BURNHAM, SUSAN B. LONG. (Kirkpatrick, Michael) (Entered: 02/15/2019)
02/20/2019		MINUTE ORDER. The parties shall next report on the status of settlement efforts no later than February 21, 2019. Based on the parties representations, the court will determine an appropriate deadline for a supplemental declaration, if needed. Signed by Judge Amit P. Mehta on 02/20/2019. (lcapm1) (Entered: 02/20/2019)

02/21/2019	<u>33</u>	Joint STATUS REPORT by DAVID BURNHAM, SUSAN B. LONG. (Kirkpatrick, Michael) (Entered: 02/21/2019)
02/21/2019		MINUTE ORDER. In light of the parties' Joint Status Report of March 21, 2019, ECF No. <u>33</u> , the court orders that, no later than April 15, 2019, Defendant shall provide Plaintiffs with a sample release of data including any fields Defendant proposes to release in settlement of this case. Furthermore, the parties shall submit a Joint Status Report by April 22, 2019, updating the court on their settlement efforts. Finally, the court defers setting a deadline for a supplemental declaration from Defendant. Signed by Judge Amit P. Mehta on 2/21/2019. (lcapm2) (Entered: 02/21/2019)
02/21/2019		Set/Reset Deadlines: Joint Status Report due by 4/22/2019. (zjd) (Entered: 03/07/2019)
04/22/2019	<u>34</u>	Joint STATUS REPORT by DAVID BURNHAM, SUSAN B. LONG. (Kirkpatrick, Michael) (Entered: 04/22/2019)
04/22/2019		MINUTE ORDER. The parties shall file a Joint Status Report by May 13, 2019, which updates the court on their efforts to resolve this matter. Signed by Judge Amit P. Mehta on 04/22/2019. (lcapm1) (Entered: 04/22/2019)
04/22/2019		Set/Reset Deadlines: Joint Status Report due by 5/13/2019. (zjd) (Entered: 04/22/2019)
05/13/2019	<u>35</u>	Joint STATUS REPORT by IMMIGRATION AND CUSTOMS ENFORCEMENT. (Nebeker, William) (Entered: 05/13/2019)
05/14/2019		MINUTE ORDER. The parties shall file a Joint Status Report by May 23, 2019, which updates the court on their efforts to resolve this matter. Signed by Judge Amit P. Mehta on 05/14/2019. (lcapm1) (Entered: 05/14/2019)
05/17/2019		Set/Reset Deadlines: Joint Status Report due by 5/23/2019 (hs) (Entered: 05/17/2019)
05/23/2019	<u>36</u>	Joint STATUS REPORT by DAVID BURNHAM, SUSAN B. LONG. (Kirkpatrick, Michael) (Entered: 05/23/2019)
05/23/2019		MINUTE ORDER. The parties shall file a Joint Status Report on or before June 12, 2019, to update the court regarding their settlement efforts. Signed by Judge Amit P. Mehta on 05/23/2019. (lcapm1) (Entered: 05/23/2019)
05/23/2019		Set/Reset Deadlines: Joint Status Report due by 6/12/2019. (zjd) (Entered: 05/23/2019)
06/12/2019	<u>37</u>	Joint STATUS REPORT by DAVID BURNHAM, SUSAN B. LONG. (Kirkpatrick, Michael) (Entered: 06/12/2019)
06/12/2019		MINUTE ORDER. The parties shall file a Joint Status Report on or before July 10, 2019, to update the court regarding their settlement efforts. Signed by Judge Amit P. Mehta on 06/12/2019. (Entered: 06/12/2019)